

GEORGE GALE.

FEBRUARY 29, 1840.

Read, and laid upon the table.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred the petition of George Gale, claiming compensation for the loss of four horses, a wagon, and harness, while in the military service of the United States, at Sandusky, in the State of Ohio, in January, 1813, make the following report :

This claim was presented to Congress in the year 1815, and at several intervening sessions, and, in the House of Representatives, was referred to the Committee of Claims at the 1st session of the 23d Congress, which made an unfavorable report thereon ; since which, some additional evidence has been furnished, but which in no way changes the character of the claim. The committee have reviewed the report heretofore made, and adopt it as a part of this report, and concur in the conclusions that the claim is not sustained ; and offer the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.

JANUARY 27, 1834.

The Committee of Claims, to whom was referred the petition of George Gale, report :

That the petitioner asks Congress to remunerate him for the damages he sustained by the loss of four horses while they were in the service of the United States at Upper Sandusky, in the State of Ohio, on the 19th of January, 1813, by breaking away from the wagon, or by having been stolen ; and, also, the damages sustained by the loss of his horse-gears, and for his wagon, which, he says, was drawn to the Maumee by other horses, and never returned to him. He exhibits the appraisal of said horses, wagon, and gears, at the time they entered the service, on the 15th of October, 1812, by which it appears their value then was \$385. He first accompanied a regiment of Virginia militia in the character of contractor, and took his team and wagon to transport the necessary supplies, and afterwards entered his team in the service. He says he applied to the

Legislature of Virginia to compensate him for his losses, who refused to grant him any relief, and referred him to Congress. The committee, by its chairman, addressed a letter to Mr. Hagner, to ascertain whether there was any evidence in his office relative to the claim, and whether the petitioner drew pay for the hire of his team after the time he lost his horses, and whether he had received any compensation for his wagon. His answer is received, and, being referred to, is made a part of this report. It appears the petitioner drew full pay for sixty-one days after the time it is proven his horses were lost; and that the driver, having been taken from the ranks, was paid as a soldier; and that the petitioner received the amount allowed for team, wagon, and driver. There is something wrong in this application. If the petitioner supplied himself with another team, (of which, however, there is no suggestion,) then he ought to explain why he claims pay for his wagon; and, if he did not supply himself with another team, he should explain how he came to receive pay for a team which he had not in the service, and how he came to receive pay for a driver who was taken from the ranks, and paid as being a soldier. The petitioner ought to bring himself within the principle stated by Mr. Hagner, that the claimant must show the loss was not by negligence or neglect. If he shall make out his case hereafter, there should be deducted the amount he has been paid, to which he was not entitled. The amount he has received is \$483, which is \$98 more than his horses, wagon, and gears were appraised to be worth in the October previous to the loss.

The committee submit the following resolution:

Resolved, That the petitioner is not entitled to relief.

TREASURY DEPARTMENT,
Third Auditor's Office, January 24, 1834.

SIR: In answer to your letter of the 21st instant, enclosing the petition of George Gale, and asking to be informed as to the time he received pay for his team, and whether any compensation has been made to him either for the use or value of his wagon after the date when it is said he lost his horses, I have the honor to state that no payment can be found to have been made to him for the value of any of the property, but that, by rolls on file with the accounts of John Mallory, assistant deputy quartermaster general, the petitioner appears to have received for hire of a wagon and team as follows, viz:

1st.	On a roll for the period from 12th Oct. to 30th Nov. 1812	-	\$150
2d.	do. do. 1st to 31st December, 1812	-	93
3d.	do. do. 1st to 31st January, 1813	-	93
4th.	do. do. 1st February to 3d March, 1813,		
	and eighteen days, in addition, for returning home	-	147

483

The testimony represents that the four horses of the petitioner were lost at Upper Sandusky, on the night of the 19th January, 1813, either by breaking off from the wagon, or by being stolen; and that when the horses were lost, the wagon was drawn by other horses on to the Rapids, and was

not returned. It does not appear by whose horses it was so drawn, or why it was not returned. A private, by the name of George Keese, is stated to have been taken out of Captain Dunn's company of Virginia militia to drive the team; but for what reason is not explained, and the date at which he was taken from the company does not appear. On resort to the rolls, he is found to have been mustered as present up to the 30th November, 1812; the succeeding roll, which covers the period from that day to the 28th February, 1813, has opposite his name this remark: "on extra service driving team."

According to the rolls on which the hire was receipted for, the payments were made to the petitioner in person, and the signatures correspond with that on his deposition. It would seem, therefore, that he must have been with the troops. The rate at which he was paid is the same as was paid to others, and the time for which he received full hire extends, it will be seen, sixty-one days beyond the date of the alleged loss; and Keese, the driver, appears, by the rolls of the company to which he belonged, to have obtained his pay from the paymaster, for the whole tour of duty. In order to establish the claim under the laws which the late commissioner of claims had to administer, the production of clear proof that the loss happened without any fault or negligence of the owner would have been necessary. The papers are returned.

With great respect, your most obedient servant,

PETER HAGNER, *Auditor.*

Hon. E. WHITTLESEY,

Chairman of the Com. of Claims, Ho. of Reps.

It does not appear by whose hands it was so drawn, or if it was not returned. A driving by the name of George Reese is said to have been taken out of Captain Dunn's company of Virginia militia to drive the team; but for what reason is not explained, and the name of which he was taken from the company does not appear. On resort to the rolls, he is found to have been enlisted as present up to the 30th November, 1812; the succeeding roll, which covers the period from that day to the 28th February, 1813, has opposite his name this remark: "on extra service driving team."

According to the rolls on which the fine was received for the payments made to the petitioner in person, and the signatures correspond with those on his deposition. It would seem, therefore, that he must have been with the troops. The rate at which he was paid is the same as was paid to the other men, and the time for which he received full hire extends, it will be seen, nearly one day beyond the date of the alleged loss; and likewise, the driver's reports by the rolls of the company to which he belonged, to have obtained his pay from the paymaster, for the whole term of duty. In order to establish the claim under the laws which the petitioner has obtained to administer, the production of clear proof that the loss happened without any fault or negligence of the owner would have been necessary. The papers are returned.

With great respect, your most obedient servant.

PETER HAGNER, Auditor.

Hon. E. WHITTELEY,

Chairman of the Com. of Claims, M. of Reps.